

EXHIBIT 43

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

---oOo---

CHASOM BROWN; MARIA NGUYEN;
WILLIAM BYATT; JEREMY DAVIS;
and CHRISTOPHER CASTILLO,
individually and on behalf
of all other similarly
situated,

Plaintiffs,

vs.

No. 5:20-cv-03664-LHK

GOOGLE LLC,

Defendant.

_____/

CONFIDENTIAL

REMOTE VIDEOTAPED DEPOSITION OF CHRISTOPHER R. PALMER
WITNESS LOCATION: SAN FRANCISCO, CALIFORNIA
WEDNESDAY, JANUARY 5, 2022

Stenographically Reported by:
ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR
California CSR No. 9830
Job No. 773740

MAGNA LEGAL SERVICES
866-624-6221

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 ---oOo---

4
5 CHASOM BROWN; MARIA NGUYEN;
6 WILLIAM BYATT; JEREMY DAVIS;
7 and CHRISTOPHER CASTILLO,
8 individually and on behalf
9 of all other similarly
10 situated,

11 Plaintiffs,

12 vs.

No. 5:20-cv-03664-LHK

13 GOOGLE LLC,

14 Defendant.

15 /

16 REMOTE VIDEOTAPED DEPOSITION OF
17 CHRISTOPHER R. PALMER, taken on behalf of the
18 Plaintiffs, on Wednesday, January 5, 2022,
19 beginning at 10:06 a.m., and ending at 5:43 p.m.,
20 Pursuant to Notice, and remotely before me,
21 ANDREA M. IGNACIO, CSR, RPR, CRR, CLR ~ License
22 No. 9830.
23
24
25

1 R E M O T E A P P E A R A N C E S :

2

3 COUNSEL FOR THE PLAINTIFFS:

4 BOIES SCHILLER & FLEXNER LLP

5 By: BEKO REBLITZ-RICHARDSON, ESQ.

6 MARK MAO, ESQ.

7 ROSANNA BAEZA, ESQ.

8 ERIKA NYBORG-BURCH, ESQ.

9 44 Montgomery Street, 41st Floor

10 San Francisco, California 94104

11 415.293.6804

12 brichardson@bsfllp.com

13

14 MORGAN & MORGAN

15 By: RYAN MCGEE, ESQ.

16 201 N. Franklin Street, 7th Floor

17 Tampa, Florida 33602

18 813.233.5505

19

20 SIMMONS HANLY CONROY

21 By: ERIC JOHNSON, ESQ.

22 One Court Street

23 Alton, Illinois 62002

24 618.693.3104

25 ejohnson@simmonsfirm.com

1 R O M O T E A P P E A R A N C E S: (Cont.)

2

3 COUNSEL FOR THE DEFENDANT:

4 QUINN EMANUEL URQUHART & SULLIVAN

5 By: JOMAIRE CRAWFORD, ESQ.

6 CARL SPILLY, ESQ.

7 51 Madison Avenue, 22nd Floor

8 New York, New York 10010

9 212.849.7000

10 jomairecrawford@quinnemanuel.com

11

12 ALSO PRESENT: Torryn Taylor, Google

13 Bill Shover, Videographer

14

15 ---oOo---

16

17

18

19

20

21

22

23

24

25

1 Do you see that? 14:48

2 A I do. 14:48

3 Q And what was the Incognito problem? 14:48

4 A The fuzziness of the word "Incognito." 14:48

5 Q And if you look on the second page, do you 14:48

6 see where it says: 14:48

7 "Key Fact: Incognito Confuses People." 14:48

8 A I see that. 14:49

9 Q Did you write that? 14:49

10 A I did. 14:49

11 Q When you wrote "Incognito Confuses People," 14:49

12 were you referring to Incognito Mode for Google's 14:49

13 Chrome browser? 14:49

14 A Yes. 14:49

15 Q When you wrote "Incognito Confuses People," 14:49

16 were you referring to the people who use the Google 14:49

17 Chrome Incognito Mode? 14:49

18 A I wouldn't say exclusively. I think even 14:49

19 people who use other browsers or are thinking about it 14:49

20 or writing about it may also find the term fuzzy and 14:49

21 may also misunderstand it. 14:49

22 Q So just so that I understand, when you wrote 14:49

23 "Incognito Confuses People," you weren't referring 14:49

24 just to the people who use Incognito Mode in Chrome, 14:49

25 but you were referring to people more generally who 14:50

1 use any private browsing mode; is that right? 14:50

2 MS. CRAWFORD: Objection. 14:50

3 THE WITNESS: Yeah. 14:50

4 MR. RICHARDSON: Q. And on the page ending 14:50

5 '299, would you please read the first sentence 14:50

6 starting "we know." 14:50

7 A "We know from intuition, anecdotes, and now 14:50

8 empirically (Yuxi Wu, et al.; see also Habib, et al.) 14:50

9 that the 'Incognito'/Spy Guy branding, and the complex 14:50

10 disclosures (like all complex disclosures), confuse 14:50

11 people as to what exact guarantees it offers and does 14:50

12 not offer." 14:50

13 Q Did you write that sentence? 14:50

14 A I did. 14:50

15 Q Where you referred to "the 'Incognito'/Spy 14:50

16 Guy branding," were you referring to Google's branding 14:50

17 for Chrome Incognito? 14:51

18 A Yes. 14:51

19 Q And when you referred to "the complex 14:51

20 disclosures," were you referring to Google's 14:51

21 disclosures in connection with the Chrome -- with 14:51

22 Chrome Incognito Mode? 14:51

23 A Things like the text on the New Tab Page and 14:51

24 the Help Center article. 14:51

25 Q And so that's what you were referring to when 14:51

1 CERTIFICATE OF STENOGRAPHER

2

3 I, ANDREA M. IGNACIO, hereby certify that the
4 witness in the foregoing remote deposition was by me
5 remotely sworn to tell the truth, the whole truth, and
6 nothing but the truth in the within-entitled cause;

7 That said deposition was taken in shorthand
8 by me, a disinterested person, remotely at the time
9 stated, and that the testimony of the said witness was
10 thereafter reduced to typewriting, by computer, under
11 my direction and supervision;

12 That before completion of the deposition,
13 review of the transcript [x] was [] was not
14 requested. If requested, any changes made by the
15 deponent (and provided to the reporter) during the
16 period allowed are appended hereto.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the said
19 deposition, nor in any way interested in the event of
20 this cause, and that I am not related to any of the
21 parties thereto.

22 Dated:

23 Andrea M. Ignacio

24 ANDREA M. IGNACIO, RPR, CRR, CCRR, CLR, CSR No. 9830

25